



Legislation Details (With Text)

**File #:** PC 18-096    **Version:** 1    **Name:** Remand for Historic Properties to PC on limited basis

**Type:** Land Use Item    **Status:** Public Hearing

**File created:** 7/9/2018    **In control:** Planning Commission

**On agenda:** 7/18/2018    **Final action:**

**Title:** First Reading of Ordinance No. 18-1010, Remand of Land Use Board of Appeals Court Decision for Planning Files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change Located near Beaver Creek Road and Highway 213 (Tentative Decision)

**Sponsors:** Laura Terway

**Indexes:**

**Code sections:**

**Attachments:** 1. Staff Report, 2. Ordinance No. 18-1010, 3. Ordinance Attachment A: Findings of Fact, 4. Ordinance Attachment B: Staff Report, 5. Applicant's Submittal, 6. Vicinity Map, 7. Statewide Planning Goal 5, 8. Oregon City Comprehensive Plan, 9. Metro ESEE Analysis, 10. Metro's 2017 Compliance Report, 11. Natural Resources Overlay District Compliance Letter, 12. Letter from Aleta Froman-Goodrich, City Engineer, 13. Property Taxlot Reports, 14. Natural Resources Overlay District Map, 15. Flood Management Overlay District Map, 16. Historic Districts Map, 17. Willamette River Greenway Overlay District Map, 18. Oregon City Municipal Code Chapter 8.08, 19. Oregon City Municipal Code Chapter 13.12, 20. Oregon City Municipal Code Chapter 17.40, 21. Oregon City Municipal Code Chapter 17.42, 22. Oregon City Municipal Code Chapter 17.47, 23. Oregon City Municipal Code Chapter 17.48, 24. Oregon City Municipal Code Chapter 17.49, 25. 2015 Stormwater and Grading Design Standards, 26. Land Use Board of Appeals Final Opinion and Order, 27. Document on from Tomas J Sisul dated May 14, 2018, 28. Document from Michael C Robinson dated May 14, 2018, 29. Document from Stacey Reed dated May 30, 2018, 30. Documents from James Nicita dated May 14, 2018, 31. Notice of Decision from files PZ 15-01 and ZC 15-03, 32. Letter to Planning Commission from Attorney Mike Robinson Jun 4, 2018, 33. Document from Carrie Richter dated June 4, 2018, 34. Wetland Inventory, 35. Email from James Nicita dated June 11, 2018, 36. Oregon City NPDES 2016-2017 Annual Report, 37. Cascade Environmental Group Clackamette Cover Water Quality and Habitat Improvement Feasibility Study, 38. Oregon City MS4 permit, 39. Oregon Department of Environmental Quality State Agency Coordination Program, 40. Article on ESA and Goal 5, 41. Metro Newell Creek Canyon Master Plan, 42. Metro Newell Creek Canyon Conservation Plan, 43. Oregon City TMDL Implementation Plan, 44. Memorandum from Michael Robinson dated July 9, 2018, 45. Memorandum from Sha Spady dated July 4, 2018

Date	Ver.	Action By	Action	Result
7/18/2018	1	City Commission	approve on first reading	Pass

First Reading of Ordinance No. 18-1010, Remand of Land Use Board of Appeals Court Decision for Planning Files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change Located near Beaver Creek Road and Highway 213 (Tentative Decision)

**RECOMMENDED ACTION (Motion):**

Re-Approval of Planning Files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change Located near Beaver Creek Road and Highway 213 and 1<sup>st</sup> Reading of Ordinance 18-1010 with revised findings to be adopted during the 2<sup>nd</sup> reading of the Ordinance on August 1.

**BACKGROUND:**

In 2016, the City approved Planning files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03:

Zone Change to amend the Comprehensive Plan Map from Low Density Residential and Medium Density Residential to "MUC" Mixed Use Corridor and a Zone Change from "R-3.5" Dwelling District, "R-6" Single-Family Dwelling District and "R-10" Single-Family Dwelling District to "MUC-2" Mixed-Use Corridor 2 for properties located near the northeast corner of Highway 213 and Beavercreek Road. The City's approval was appealed to the Land Use Board of Appeals (LUBA) whom remanded the decision back to the City for additional findings relating to Goal 5: Natural Resources. LUBA determined that the City must determine if the new uses allowed by the application could conflict with the Goal 5 resources, particularly Newell Creek, and if the new uses would result in increased volume and velocity of stormwater or the possibility of increased levels of contaminants. The LUBA decision was subsequently appealed to the Court of Appeals whom affirmed LUBA's decision, and the State Supreme Court whom declined to hear the case.

Upon resolution of all appeals, the matter was before the City for reconsideration of the Goal 5 issue on remand. On April 4, the City Commission asked the Planning Commission to hold a public hearing considering additional evidence and argument necessary to determine whether the more intensive uses allowed by the proposal would conflict with the Newell Creek, the only Goal 5 resource identified on the site. The Planning Commission reviewed the matter, closed the record, and recommended that the City Commission approve files PZ 15-01 and ZC 15-03.

The matter is now before the City Commission for review. The record is closed and no new evidence may be submitted. Though anyone may participate in the proceeding before the City Commission, all testimony must be related to the limited question of whether the proposed uses would conflict with Newell Creek. Testimony relating to the quality of Newell Creek or, more generally, whether the City's existing regulations are sufficient to comply with Goal 5 or other state or federal requirements are beyond the scope of the limited issue on appeal.